

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID COHEN & SYLVIA K. JOHANN,

Civil Action No. 09 CIV 6709

Plaintiffs,

-against-

NOTICE OF MOTION

DELTA AIR LINES INC.,

Defendant.

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S I R S:

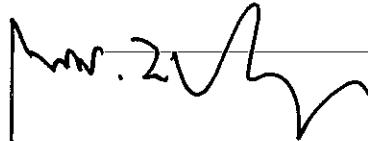
PLEASE TAKE NOTICE that upon the Affidavit of Robert Rector of Delta Air Lines, Inc., sworn to the 31st day of August 2010, the Affidavit of George P. McKeegan, duly sworn to the 7th day of September 2010, the exhibits annexed thereto, the accompanying Memorandum of Law submitted therewith, and upon all the pleadings and proceedings heretofore had herein, the defendant Delta Air Lines, Inc. will move before Judge Harold Baer, Jr. at the United States District Court for the Southern District of New York, at the courthouse located at 500 Pearl Street, New York, New York, on the 6th day of October 2010 at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard for an Order (a) granting Delta summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and (b) granting Delta judgment on the pleadings pursuant to Rule 12 (c) of the Federal Rules of Civil Procedure and (c) for such other and further relief as to this Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order of Judge Baer, answering affidavits, if any, must be served by September 29, 2010 and the fully briefed motion must be filed on or before October 6, 2010.

Dated: New York, New York
September 8, 2010

McKEEGAN & SHEARER, P.C.

By



George P. McKeegan, (GPM 8602)

Attorneys for Defendant
192 Lexington Avenue
New York, New York 10016
(212) 661-4200

TO: DAVID COHEN, ESQ.
Attorney for Plaintiffs
19 East Shore Drive
P.O. Box 299
Niverville, New York 12130

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
ss.:
COUNTY OF NEW YORK)

LINDA ARCARA, being duly sworn, deposes and says:

That I am not a party to this action, am over the age of 18 years and reside in Bayside, New York.

That on the 9th day of September 2010, I served a true copy of defendant's NOTICE OF MOTION, LOCAL CIVIL RULE 56. STATEMENT, AFFIDAVIT OF GEORGE P. McKEEGAN, EXHIBITS, AFFIDAVIT OF ROBERT RECTOR and MEMORANDUM OF LAW IN SUPPORT OF DELTA'S MOTION FOR) SUMMARY JUDGMENT DISMISSING PLAINTIFFS' COMPLAINT AND (B) JUDGMENT ON THE PLEADINGS DISMISSING PLAINTIFFS' COMPLAINT in the following manner:

By mailing the same in a sealed envelope, with postage prepaid thereon, in an official depository of the U.S. Postal Service within the State of New York, addressed to the last known of the addressee(s) as follows:

DAVID COHEN, ESQ.
19 East Shore Drive
P.O. Box 299
Niverville, New York 12130

Sworn to before me this
9th day of September 2010



Linda Arcara

M. J.
GEORGE P. McKEEGAN
Notary Public, State of New York
No. 02MC6131547
Qualified in Westchester County
Commission Expires August 8, 2013